

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Phillip Reeves,

Petitioner,

v.

Brian Stirling, SCDC,

Respondent.

C/A No. 0:24-528-CMC

Order

This matter is before the court on Petitioner's *pro se* petition filed on February 1, 2024. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett, for pre-trial proceedings and a Report and Recommendation ("Report").

Two Proper Form Orders were entered, directing Petitioner to pay the five-dollar filing fee or to complete and return paperwork necessary to proceed *in forma pauperis*. ECF Nos. 4, 9. Both Orders instructed Petitioner to keep the court up to date on any address changes. Petitioner submitted a notice of change of address on February 26, 2024. ECF No. 6. However, he did not pay the filing fee or file a motion to proceed *in forma pauperis*. The April Order, ECF No. 9, was returned to the court as undeliverable, with the envelope bearing a note that Petitioner had been released.

On May 15, 2024, the Magistrate Judge issued a Report recommending this matter be dismissed for failure to comply with an order of the court. ECF No. 14. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the

serious consequences if he failed to do so. Petitioner has not filed objections, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

After reviewing the record, the applicable law, and the Report of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation by reference into this Order. This matter is dismissed with prejudice for failure to comply with an order of the court.

CERTIFICATE OF APPEALABILITY

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **denied**.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
June 6, 2024